

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff

DECISION and ORDER

-VS-

13-CR-6025

PATRICK CHRISTNER AND
CIARRA CRANE

Defendant

This case was referred by text order of the undersigned, entered February 12, 2013 to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B), ECF No. 34. On October 28, 2013, Defendant Crane filed an omnibus motion, ECF No. 219, seeking *inter alia* suppression of evidence obtained from a June 15, 2012 wiretap and June 25, 2012 wiretap and suppression of tangible evidence. Additionally, Crane sought a bill of particulars and disclosure of the identity of confidential informants. On March 31, 2014, Defendant Christner filed an omnibus motion, ECF No. 310, seeking *inter alia* suppression of evidence obtained from the aforementioned June 15, 2012 and June 25, 2012 wiretaps and suppression of evidence of a November 27, 2012 photographic identification procedure. On May 16, 2014, ECF No. 338, an evidentiary hearing was held concerning Defendant Christner's application to suppress evidence of the November 27, 2012 photographic identification procedure. On October 27, 2015, Magistrate Judge Payson filed a combined Decision and Order ("D & O") and Report and Recommendation ("R&R"), ECF No. 447. In her D & O, Magistrate Judge Payson denied without prejudice Defendant Crane's motion for a bill of particulars and disclosure of confidential informants. In her R&R, Magistrate Judge Payson recommended denying the applications of Defendant Crane and Defendant Christner

to suppress evidence obtained from the June 15, 2012 and June 25, 2012 wiretaps, and she recommended denying Defendant Christner's application to suppress evidence of the November 27, 2012 photographic identification procedure. On December 10, 2015, Defendant Christner timely filed objections to the R&R, ECF No. 456, relating to both the wiretap evidence and the photographic identification. With respect to Defendant Crane the time has passed for Defendant to file any objections to the R&R, and none have been filed.

Pursuant to 28 U.S.C. § 636(b)(1)(A), this Court must determine whether Magistrate Judge Payson's Decision and Order denying Defendant Crane's request for a bill of particulars and disclosure of confidential informants as clearly erroneous or contrary to law. Upon a consideration of the Decision and Order, and after considering the fact that Defendant Crane filed no objections, the Court finds that Judge Payson's Decision and Order denying Defendant Crane's request for a bill of particulars disclosure of confidential informants was neither clearly erroneous nor contrary to law

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of Magistrate Judge Payson's R & R to which objections have been made. Upon a *de novo* review of the R & R, including a review the transcript, ECF No. 473, of the evidentiary hearing held on May 16, 2014 and exhibits received, the Court accepts the proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Payson's R&R, ECF No. 447 , the applications of Defendant Crane and Defendant Christner to suppress evidence obtained from the June 15, 2012 and June 25, 2012 wiretaps are denied. Additionally, Defendant Christner's application to suppress evidence of the November 27, 2012

photographic identification, and Defendant Crane's application to suppress tangible evidence are also denied.

IT IS SO ORDERED.

Dated: Rochester, New York
January 26, 2016

ENTER:

/s/ Charles J. Siragusa
CHARLES J. SIRAGUSA
United States District Judge